



OLR RESEARCH REPORT

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NORWALK'S FIRST DISTRICT WATER RATES

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You asked why Norwalk's First District Water Department has different rates for "in-district" and "out-of-district" customers.

SUMMARY

The Norwalk First District Water Department's practice of charging out-of-district customers roughly 50% more than in-district customers is long-standing and has been upheld by the state Supreme Court. According to the department, it has been using this rate differential for out-of-district customers since the current City of Norwalk was created in 1913. Current residential rates are \$2.84/1000 gallons of water for in-district customers and \$4.23/1000 gallons of water for out-of-district customers. An out-of-district customer also pays higher service charges, depending on the size of his or her water meter.

The legal justification for the rate differential stems from a 1963 state Supreme Court decision. The court ruled that the difference in rates, which were then 25 cents per 1000 gallons for in-district customers and 50 cents per 1000 gallons for out-of-district customers, was not unreasonable due to the (1) additional expenses incurred by expanding the department's infrastructure for out-of-district customers and (2) potential debt liability placed on in-district customers to pay for the expansion.

DISTRICT HISTORY

Norwalk's First Taxing District is roughly the geographic center of the current city. It was the Borough of Norwalk from 1836 until it was incorporated as the city of Norwalk in 1893. In 1913, the separate cities of Norwalk and South Norwalk and the unincorporated portions of the Town of Norwalk merged to form the current City of Norwalk. The special act that created the new consolidated city allowed the First Taxing District to succeed as the owner and operator of the old city's waterworks. Under the act, the district's residents and property would be subject to additional taxation if the new water department's rates and fees could not meet any current expenses and interest on outstanding debts (16 Special Acts, 1038-1044).

BARR V. FIRST TAXING DISTRICT

Evelyn Barr, et al. v. The First Taxing District of the City of Norwalk (151 Conn. 53 (1963)) brought the water department's in- and out-of-district rates before the state Supreme Court. The plaintiffs, who resided outside of the district, argued that their rates were discriminatory and unlawful and sought to (1) stop the district from continuing the rate differential and (2) require it to pay damages for excess payments.

In considering if the rate differential was discriminatory and unlawful, the court noted that a municipally owned waterworks supplying water outside its corporate limits may, generally, charge more for the customers outside its corporate limits, as long the additional charges were not unreasonably high. It also stated that the decisions of the officers who determine rates must be allowed to stand unless it is found that rates are excessive and their actions are illegal and arbitrary.

The court noted that whether a water rate is reasonable or unreasonable is primarily a question of fact, depending largely on circumstances of a particular case. In this particular instance, the court found that the service area within the district was an older, more established, and denser area that needed little infrastructure expansion. In contrast, the out-of-district area was generally much more spread out and continuing to expand. To respond to increased out-of-district demand, the water department had to invest in considerable infrastructure expansion to install additional lengths of mains and pumping facilities that were financed by general obligation bonds. Although the water department's income was able to meet all of the bonds' obligations, First Taxing District taxpayers would have been secondarily liable for any unpaid debt.

The trial court held that this combination of increased expenses for out-of-district expansion and potential debt liability for in-district tax payers made it reasonable to charge higher rates to out-of-district customers. The Supreme Court agreed and upheld the lower court's decision.

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